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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Patent No. 7,507,415	:	DECISION ON REQUEST
Arroyo et al.	:	FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Application No. 10/715,868	:	PATENT TERM ADJUSTMENT
Filed: November 17, 2003	:	and
Atty Docket No. 06132/075002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and seventy-seven (677) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred and sixty-six (676) is **GRANTED to the extent indicated herein.**

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged (Petitioner has submitted \$400, when \$200 was due, and the excess \$200 will be refunded to Deposit Account No. 03-2095 in due course).

Petitioner has asserted that the period of examination delay associated with the issuance of this patent should be 120 days, and not 75 days, due to the fact that the issue fee was received not on September 8, 2008, but rather on July 24, 2008 (which is four months and 120 days prior to the issuance of this patent). In light of the petition pursuant to 37 C.F.R. § 1.181 that was filed on September 8, 2008, the copy of the date-stamped

postcard receipt that was presented concurrently therewith, and the January 22, 2009 decision which granted the petition to withdraw the holding of abandonment, this Office concurs with this assertion.

The period of 75 days of examination delay has been removed from Office records, and a period of 120 days of examination delay has been inserted in its place.

Patentee has miscalculated one period of delay. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 18, 2006 and ends on March 25, 2008, the day before the first RCE was filed, which amounts to 494 (not 495) days. See U.S.C. 154(b)(1)(B)(i). Considering overlap of 68 days, a period of Office delay of 426 days is being entered for B delay. (The period of B delay of 199 days entered at issuance is being removed).

As such, the patent term adjustment is 676, not 677 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred and seventy-six (676) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanowski at (571) 272-3225.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,507,415 B2

DATED : Mar. 24, 2009

DRAFT

INVENTOR(S) : Arroyo et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 404 days

Delete the phrase "by 404 days" and insert – by 676 days--